

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

DALE E. GULICK

Serial No.: 09/853,446

Filed: May 11, 2001

For: RESOURCE SEQUESTER MECHANISM

Examiner: TIM VO

Group Art Unit: 2112

Att'y Docket: 2000.038600

**APPEAL BRIEF**

CERTIFICATE OF MAILING  
37 C.F.R. 1.8

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date below:

01-04-05  
Date

Kathy D. Jones  
Signature

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicant hereby submits an original and two copies of this Appeal Brief to the Board of Patent Appeals and Interferences in response to the final Office Action dated September 13, 2004.

The Commissioner is authorized to deduct the fee for filing this Appeal Brief (\$500) from **Advanced Micro Devices, Inc.'s Deposit Account 01-0365/TT3759**. In the event the monies in that account are insufficient, the Commissioner is authorized to withdraw funds from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2000.038600.

01/10/2005 MAHMED1 00000063 010365 09853446

01 FC:1402 500.00 DA

## **I. REAL PARTY IN INTEREST**

The present application is owned by Advanced Micro Devices, Inc. The assignment of the present application to Advanced Micro Devices, Inc., is recorded at Reel 011816, Frame 0522.

## **II. RELATED APPEALS AND INTERFERENCES**

Applicant is not aware of any related appeals and/or interferences that might affect the outcome of this proceeding.

## **III. STATUS OF THE CLAIMS**

Claims 1-11 have been withdrawn from consideration. Thus, claims 12-21 are pending in the application. The claims as currently pending are attached as Appendix A. Claims 12-21 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Wiedemer (U.S. Patent No. 5,155,680).

## **IV. STATUS OF AMENDMENTS**

There were no amendments after the final rejections.

## **V. SUMMARY OF THE INVENTION**

Many conventional computer systems, including personal computers, laptop computers, and the like, implement an x86 operating environment. Privacy, security, and ownership (collectively, PSO) of information stored and/or transmitted by computer systems is becoming critical in an age of Internet-connected computers. The original personal computers were not

designed in anticipation of PSO needs. Consequently, from a hardware point of view, the x86 operating environment provides little for protecting user privacy, providing security for corporate secrets and assets, or protecting the ownership rights of content providers. From a software point of view, the x86 operating environment is equally poor for PSO. The ease of direct access to the hardware through software or simply by opening the cover of the personal computer allows an intruder or thief to compromise most security software and devices. The personal computer's exemplary ease of use only adds to the problems for PSO.

At least in part to address the PSO needs of computer systems, claims 11, 15, 16, and 19 set forth methods of operating a computer system in System Management Mode (SMM), the computer system including a processor coupled to a memory, to security hardware, and to a first device, the method includes unlocking security hardware, accessing the first device, locking the security hardware, and calling an SMM exit routine. As defined in the specification, System Management Mode (SMM) is a mode of operation in the computer system that was implemented to conserve power. The SMM was created for the fourth generation x86 processors. As newer x86 generation processors have appeared, the SMM has become relatively transparent to the operating system. That is, computer systems enter and leave the SMM with little or no impact on the operating system. See Patent Application, page 13, ll. 13-17.

## **VI. ISSUE ON APPEAL**

Appellant respectfully requests that the Board review and overturn the single rejection present in this case. The following issue is presented on appeal in this case:

(A) Whether claims 12-21 are anticipated by Wiedemer.

## VII. GROUPING OF THE CLAIMS

For the issues presented above, 12-21 may be considered to stand or fall together.

## VIII. ARGUMENT

### A. Claims 12-21 are not anticipated by Wiedemer.

As the Examiner well knows, an anticipating reference by definition must disclose every limitation of the rejected claim in the same relationship to one another as set forth in the claim. *In re Bond*, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990).

Wiedemer is directed to a computer software security and billing system. The Examiner alleges that Wiedemer teaches a method of operating a computer system in System Management Mode. Applicant respectfully disagrees. As stated above and defined in the specification, System Management Mode (SMM) is a mode of operation in the computer system that was implemented to conserve power. Applicant respectfully submits that Wiedemer does not teach or suggest a computer system capable of operating in System Management Mode. In fact, Wiedemer appears to be completely silent with regard to System Management Mode. Accordingly, Applicant submits that Wiedemer fails to teach or suggest calling an SMM exit routine, as set forth in claims 12, 15-16, and 19.

In the FINAL Office Action, the Examiner argues that the preambles of independent claims 12, 15-16, and 19 do not state that "the system management mode is a mode of operation in the computer system that was implemented to conserve power." Thus, the Examiner alleges that Appellant's argument that Wiedemer is completely silent with regard to System management mode and, in particular, fails to describe or suggest calling a system management mode exit routine, is moot. Appellant respectfully disagrees and notes that there is no statutory

requirement terms used in the claims must also be defined in the claims. To the contrary, it is well established that terms used in the claims are to be interpreted in light of the specification and that Appellant is entitled to be his or her own lexicographer. See MPEP §2111.01. Appellant respectfully submits that the term "system management mode" is defined in the specification and thus an explicit definition of this term does not need to be present in the claims.

Appellant respectfully requests that the Examiner's rejections of claims 12-21 be REVERSED.

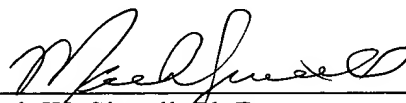
## IX. CONCLUSION

In view of the foregoing, it is respectfully submitted that the Examiner erred in not allowing all claims pending in the present application, claims 12-21, over the prior art of record. The undersigned may be contacted at (713) 934-4052 with respect to any questions, comments or suggestions relating to this appeal.

Respectfully submitted,

Date: \_\_\_\_\_

1/4/09



Mark W. Sincell, Ph.D.

Reg. No. 52,226

WILLIAMS, MORGAN & AMERSON

10333 Richmond, Suite 1100

Houston, Texas 77042

(713) 934-7000

(713) 934-7011 (facsimile)

AGENT FOR APPLICANTS

## **APPENDIX A**

12. A method of operating a computer system in System Management Mode (SMM), the computer system including a processor coupled to a memory, to security hardware, and to a first device, the method comprising:

unlocking security hardware;  
accessing the first device;  
locking the security hardware; and  
calling an SMM exit routine.

13. The method of claim 12, further comprising:  
checking a lock status of the security hardware.

14. The method of claim 12, further comprising:  
processing SMM code instructions.

15. A computer system configured to operate in System Management Mode (SMM), the computer system comprising:

means for unlocking security hardware;  
means for accessing the first device;  
means for locking the security hardware; and  
means for calling an SMM exit routine.

16. A computer readable program storage device encoded with instructions that, when executed by a computer system including a processor coupled to a memory, to security hardware, and to a first device, performs a method of operating a computer system in System Management Mode (SMM), the computer system, the method comprising:

- unlocking security hardware;
- accessing the a first device;
- locking the security hardware; and
- calling an SMM exit routine.

17. The computer readable program storage device of claim 16, the method further comprising:

checking a lock status of the security hardware.

18. The computer readable program storage device of claim 16 ~~12~~, the method further comprising:

processing SMM code instructions.

19. A method of operating a computer system in System Management Mode (SMM), the computer system including a processor coupled to a memory, to security hardware, and to a first device that is accessible when the security hardware is unlocked and is not accessible when the security hardware is locked, the method comprising:

- unlocking security hardware;
- accessing the first device;

locking the security hardware; and  
calling an SMM exit routine.

20. The method of claim 19, further comprising:  
checking a lock status of the security hardware.

21. The method of claim 19, further comprising:  
processing SMM code instructions.